
UTAH LABOR COMMISSION

KIM E. CHESNUT,

Petitioner,

vs.

**WAL-MART and AMERICAN HOME
ASSURANCE COMPANY;
GENEVA STEEL and WORKERS
COMPENSATION FUND; and
EMPLOYERS REINSURANCE FUND,**

Respondents.

**ORDER DISMISSING
MOTION FOR REVIEW**

ORDER OF REMAND

Case No. 08-0845

Kim E. Chesnut asks the Utah Labor Commission to review Administrative Law Judge Lima's refusal to set aside Mr. Chesnut's settlement of his claim against Wal-Mart and American Home Assurance Company (referred to jointly as "Wal-Mart" hereafter) for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

In this proceeding, Mr. Chesnut seeks permanent total disability compensation from Wal-Mart for injuries suffered in an accident at Wal-Mart on April 7, 2005. Alternatively, Mr. Chesnut alleges that his permanent total disability is the result of injuries he suffered while working for Geneva Steel in 1992 and 1993. On July 23, 2008, Judge Lima dismissed Mr. Chesnut's claim against Wal-Mart on the grounds Mr. Chesnut and Wal-Mart had already resolved that claim in a settlement agreement approved by the Commission on February 21, 2007. However, Mr. Chesnut was allowed to continue his claim for permanent total disability compensation against Geneva Steel and its insurance carrier, which claim remains pending before Judge Lima. Judge Lima reaffirmed her initial order of July 23, 2008, in a second order issued on August 11, 2008.

Mr. Chesnut now asks the Commission for interlocutory review of Judge Lima's dismissal of Mr. Chesnut's claim against Wal-Mart. Specifically, Mr. Chesnut argues that his prior settlement with Wal-Mart should be set aside because: 1) at the time of settlement Mr. Chesnut did not have legal counsel; 2) not all of the medical evidence was included in the settlement agreement, in particular Dr. Knoebel's opinion that Mr. Chesnut was "not a candidate to return to gainful employment"; and 3) the settlement amount was insufficient to justify Mr. Chesnut's release of his right to permanent total disability compensation.

DISCUSSION

Mr. Chesnut's motion for review asks the Commission to engage in interlocutory review of one of Judge Lima's preliminary determinations in this matter. The Commission notes that such interlocutory review can have the effect of diminishing the ALJs' ability to manage hearings, and delay resolution of claims. Furthermore, the issues raised in interlocutory motions for review may be satisfactorily resolved or rendered moot by subsequent events. In such cases, consideration of an interlocutory motion for review serves no useful purpose, but diverts resources from other cases that are ready for Commission review. In light of these considerations, the Commission will engage in interlocutory review only if the advantages from deciding the issues presented will clearly outweigh "the interruption of the hearing process and the other costs of piecemeal review."¹ As a practical matter, interlocutory review is appropriate only in unusual cases.

Mr. Chesnut's claim for permanent total disability compensation has not been dismissed *in toto*. That part of his claim pertaining to his accidents at Geneva Steel remains to be adjudicated, and Mr. Chesnut may receive the compensation he seeks as a result of that process. The Commission therefore concludes that further consideration of Mr. Chesnut's interlocutory motion for review is not warranted.

ORDER

The Commission dismisses Mr. Chesnut's interlocutory motion for review and remands this matter to Judge Lima to complete the adjudication of Mr. Chesnut's pending claim for benefits based on his accidents at Geneva Steel. It is so ordered.

Dated this 23rd day of September, 2008.

Sherrie Hayashi
Utah Labor Commissioner

¹ Charles H. Koch, Jr., Administrative Law and Practice (1985), §6.75